



CITY OF DETROIT
WATER AND SEWERAGE DEPARTMENT
BOARD OF WATER COMMISSIONERS

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Agenda of March 13, 2013

**Item No. 5B
Support for Root Cause Report
and Ad Hoc Committee Structure**

TO: The Honorable
Board of Water Commissioners
City of Detroit, Michigan

FROM: Sue F. McCormick, Director
Detroit Water and Sewerage Department

DATE: March 13, 2013

RE: Support for Root Cause Report and Creation of *Ad Hoc* "Committee on Structure"

MOTION: Upon recommendation of James G. Fausone, Chairman, the Board of Water Commissioners supports the concepts in the attached Root Cause Committee's (RCC) Report, requests that the Director incorporate the material contained in this Report and the action of this Board as a part of her final Compliance report to the Court, appoints an *ad hoc* "Committee on Structure" consisting of the members of this Board's Finance and Legal Committees to address the concepts raised in the RCC Report and other issues that may impact the structure or functions of DWSD arising from those concepts, and also authorizes the Chairman and Director to take such other action as may be necessary to accomplish the intent of this vote.

This recommendation was considered by the Board of Water Commissioners and action taken as noted below.

BOARD OF WATER COMMISSIONERS:

ACTION: APPROVED

DATE: MAR 13 2013

BY: Sue F. McCormick
Sue F. McCormick, Director



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Chair's Comments to the BOWC on the RCC Report of March 13, 2013

**Jim Fausone
March 13, 2013**

Commissioners -

Root Cause Committee


For months now as the Detroit financial situation has been deteriorating, the DWSD management and RCC members have been discussing how the various scenarios would impact this utility that serves 4 million people. This Board is acutely aware of the impact the City's situation has had on the Department in so many ways – employment, purchasing and bonding for example.

As RCC stated fundamental principles for proceeding are:

- (1) Achieving both Short and Long-term Compliance through financial stability and greater autonomy;
- (2) Insulating DWSD and its customers from the financial distress and credit risk currently associated with the City of Detroit;
- (3) Providing a framework for improving DWSD's credit rating, thereby reducing the cost of prospective debt service and increasing the availability of capital;
- (4) Creating a more proactive and accountable DWSD governance and management structure better able to address the operational needs of the utility and its customers and capable of pursuing strategic opportunities to lower overall cost and improve service and compliance;
- (5) Providing a rate of return or ongoing revenue stream to the City of Detroit's General Fund; and
- (6) Protecting the City of Detroit's ultimate ownership of the DWSD system; and
- (7) Providing for operational and governance stability for DWSD and its Management Team.

Considerations

Countless hours have been spent working to build a consensus plan. I have spent hours and sleepless nights asking questions such as : Is it better for customers and employees that some plan of action be put forth rather than no plan? Is it better to provide a road map now or wait for the EM or EFM to provide the road map?



Is this plan just going to cause confusion, or a storm of grief for the administration or employees? Is the highest and best price for the utility to privatize and be a non union shop? Would anyone really try that? Is doing nothing the safest course? Is doing nothing the right course?

I offer these questions not to start a dialogue or even to get a response but at least to let you know that in preparing the report these kinds of issues weighed on my mind.

The following paragraphs summarize the RCC Report for me:

On page 2

"In light of the current dialog about the City obtaining value for DWSD, and the ongoing barriers to achieving long-term compliance, I believe it is in the best interest of the City of Detroit, the municipal customers of DWSD, and the individual customers of DWSD, to explore a more autonomous DWSD operational model that would be designed to provide a recurring revenue stream to the City of Detroit, enhance DWSD's operational and legal independence from the City, better insure compliance and preserve the City of Detroit's long-term ownership of the system."

and on page 4


"Preliminary work done by DWSD's rate consultant provided a very broad range for what a potential Payment in Lieu of Taxes could generate in terms of an annual revenue stream for the City of Detroit. The preliminary estimate, ranged from \$15 million to \$70 million based upon all property located within the City of Detroit. Looking at the issue in greater detail will be necessary, but for purposes of this discussion \$50 million is a reasonable annual assumption for the PILOT payment. The appropriateness of this notional amount or an alternative figure will require validation through the hiring of appraisers and/or through a valuation opinion provided to the City and confirmed through a financial consulting firm hired by the BOWC."

Authority Concept

As the RCC looked at the options, we concluded that DWSD becoming an AUTHORITY is in the best interest of the City, its citizens, our employees, and our customer base.

Under the RCC concept the assets are transferred to an Authority and a lease payment or PILOT is made to the City. DWSD as an Authority has more protections from (1) credit risk (2) bankruptcy and (3) greater autonomy.

The RCC recognized that the financial considerations must be fair to the City of Detroit and to the Wholesale Customers.



We also knew that it would take months to calculate the appropriate numbers. A process has to start somewhere. This is the start.

Timing

If you are asking why now - all you have to do is look at the City's situation and the pending appointment of an EM.

It is generally agreed the EM has a different set of goals than this Board, City Council, the Mayor, or our customers.

At the top of the Boards' list of goals is long term environmental compliance. At the top of the EM's goals will be "maximizing value" of the assets.

This is not the time to be timid but to lead.

Future Financial Terms

I assure the Board and the citizens that as we move forward to work out the financial terms of the PILOT, that the Board will be vigilant in protecting the above principles and interests.

Federal Court Supervision

We have all heard Judge Cox indicate he wants to end the Federal Court oversight.

As the Department leaves Federal Court oversight, it apparently will be in EM oversight. This creates serious risk to our employees and operations.

We could possibly end up with Bankruptcy Judge oversight or being sold off. After 34 years of oversight, I suggest the Court not act hastily.

The RCC report points out a better path way for existing Federal Court supervision and Judge Cox should be encouraged to set us upon that path.

Recommendation

So I would ask that the Board approve a motion in support of the RCC report of March 12, 2013.